"In the case of Light's Estate (136 Pa. 211, 20 Atl. 536, 537), the same rule was announced, the court saying:

"'If the statute can be pleaded with effect when the decedent's estate is a debtor, we can see no good reason why it may not be pleaded also with like effect when the estate is a creditor; if the running of the statute should be stopped by the death in one case, why not in the other? There is no necessity arising out of the administration of the law, or the practice in equity, which calls for any such distinction; the legatees were as much entitled to the protection of the statute as any other creditor. Admitting the right of an executor, or of the heirs, in the distribution of a decedent's estate, to set off the debts of the legatees against their legacies, the debts, to constitute a valid set-off, should be valid, subsisting debts, not barred by the statute.'

"In Richardson *v.* Keel (9 Lea, 77 Tenn. 74) the court said:

"'We do not perceive the principle upon which it can be held that while suit upon the claim is barred by the statute, so that there can be no judgment or recovery upon it, yet the administrator may appropriate the effects of the defendant, which he holds in trust for him, to the payment of the barred debt.'"

A decision in New York touching the question in Kimball *v.* Scribner, 174 App. Div. 845, decided in November, 1916, wherein it was held that "where an action is brought by a legatee against an executor to recover his legacy, one year having elapsed since the granting of letters testamentary, the executor cannot set up as a defense by way of set-off the amount of unpaid promissory notes which the legatee gave to the testatrix and which the executor holds as assets of the estate, if, in fact, the Statute of Limitations has run against the notes, which latter defense the plaintiff sets up in his reply."

Descent and Distribution—Share of Alien—Diplomatic Officer.—In a proceeding entitled In re White, Public Administrator of Queens County, 100 Misc. 393, 166 N. Y. Supp. 712, it was held that under the treaties existing between the United States and the Kingdom of Austria-Hungary the distributive share of a resident and subject of the Kingdom of Hungary in the estate of a decedent dying in this state should be directed to be paid to the Swedish Consul-General, who had taken charge of Austro-Hungarian interests in the United States pursuant to an agreement with that government and with the consent of the United States Government. The following is the surrogate's opinion:

"This is a motion to amend, nunc pro tunc, as of the 25th day of April, 1917, a decree duly entered, judicially settling the account of the public administrator of the County of Queens, as administrator of estate of said decedent, by providing therein that the distributive share of John Javor, father of said decedent, a non-resident alien,

residing in and a subject of the Kingdom of Hungary, shall be paid to Magnus Clarholm, Swedish Consul-General, in charge of Austro-Hungarian interests at the Port of New York, for and in behalf of said John Javor, instead of providing for the payment of such distributive share direct to said John Javor. Objection to such amendment was made orally by Mr. Charles J. Masone, Deputy Attorney-General of the State of New York, who questioned the right of the Swedish Consul-General to receive moneys in behalf of subjects of the Kingdom of Hungary, in view of the fact of the severance of diplomatic relations between that country and the United States.

"In reply to an inquiry addressed by the deputy attorney-general to the Department of State at Washington, D. C., he was informed that, as a state of war does not exist between the United States and Austria-Hungary, the question of the right of the Swedish Consul-General to receive such moneys would seem to depend, on the one hand, on the laws of the state of New York and, on the other hand, on the laws of Ausria-Hungary and possibly of Sweden, relating to the rights and duties of their consular officers.

"The deputy attorney-general thereupon withdrew his objections, and as I am satisfied that under the treaties existing between the United States and the Kingdom of Austria-Hungary, the Consul-General of Austria-Hungary would have a right to receive any and all funds to which subjects of those countries might be entitled, were such an official here, and it appearing that the Swedish Consul-General has taken charge of Austro-Hungarian interests in this country, pursuant to an agreement with the Austro-Hungarian Government, and with the consent and approval of the United States Government, there is no doubt in my mind that the Swedish Consul-General is, for the present at least, the duly authorized representative in the United States of the Kingdom of Austria-Hungary, and the motion to amend is therefore granted."